

Assembly Bill No. 289

Passed the Assembly July 24, 1997

Chief Clerk of the Assembly

Passed the Senate July 18, 1997

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 22001, 22050, 22101, 22105, 22106, and 22152 of, and to repeal and add Section 22102 of, the Financial Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, Baca. California Finance Lenders Law: licensing.

(1) The California Finance Lenders Law requires a person to be licensed in order to engage in the business of a finance lender or broker. An application for a license must be in the form and contain the information prescribed by the Commissioner of Corporations. The commissioner may issue subsidiary licenses to a person who is the holder of a master license, as defined. The commissioner is also required to investigate the applicant, and specified persons connected to the applicant, if the applicant is a partnership, corporation, trust, or association, upon the filing of a license application.

This bill would provide that the investigation of an existing licensee who applies for an additional location license may be limited to certain information.

(2) The California Finance Lenders Law also exempts various entities from its provisions.

This bill would specifically exempt any person who makes no more than one commercial loan in a 12-month period.

(3) Existing law provides for the designation of a license issued as a masters license and authorizes the conducting of business through subsidiary corporations under a subsidiary license.

This bill would delete those provisions and provide that nothing shall be construed to prevent a licensee from engaging in the business of a finance lender through a licensed subsidiary corporation, as specified. It would authorize a licensee with one or more licensed locations



seeking an additional license to file a short form license application.

(4) This bill would also make various clarifying changes and state legislative intent.

The people of the State of California do enact as follows:

SECTION 1. Section 22001 of the Financial Code is amended to read:

22001. (a) This division shall be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) To ensure an adequate supply of credit to borrowers in this state.

(2) To simplify, clarify, and modernize the law governing loans made by finance lenders.

(3) To foster competition among finance lenders.

(4) To protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders.

(5) To permit and encourage the development of fair and economically sound lending practices.

(6) To encourage and foster a sound economic climate in this state.

(b) Consumer loans, as defined in Sections 22203 and 22204, are subject to this chapter, Chapter 2 (commencing with Section 22200), Article 1 (commencing with Section 22700) of Chapter 4, and Article 2 (commencing with Section 22750) of Chapter 4.

(c) Commercial loans, as defined in Section 22502, are subject to this chapter, Chapter 3 (commencing with Section 22500), Article 1 (commencing with Section 22700) of Chapter 4, and Article 3 (commencing with Section 22780) of Chapter 4.

SEC. 2. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions,

small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.

(d) This division does not apply to a check cashier who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit.

(e) This division does not apply to any person who makes no more than one loan in a 12-month period as long as that loan is a commercial loan as defined in Section 22502.

SEC. 3. Section 22101 of the Financial Code is amended to read:

22101. (a) An application for a license under this division shall be in the form and contain the information that the commissioner may by rule require and shall be filed upon payment of the fee specified in Section 22103.

(b) Nothing in this section shall be construed to prevent a licensee from engaging in the business of a finance lender through a subsidiary corporation if the subsidiary corporation is licensed pursuant to this division.

(c) For purposes of this section, “subsidiary corporation” means a corporation that is wholly owned by a licensee.

(d) A new application shall not be required for a change in the address of an existing location previously licensed under this division. However, the licensee shall comply with the requirements of Section 22153.

SEC. 4. Section 22102 of the Financial Code is repealed.

SEC. 5. Section 22102 is added to the Financial Code, to read:



22102. A licensee with one or more licensed locations seeking an additional location license may file a short form license application as may be established by the commissioner pursuant to Section 22101.

SEC. 6. Section 22105 of the Financial Code is amended to read:

22105. (a) Upon the filing of an application pursuant to Section 22101 or 22102 and the payment of the fees, the commissioner shall investigate the applicant, and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests if the applicant is a partnership. If the applicant is a corporation, trust, or association, including an unincorporated organization, the commissioner shall investigate its officers, directors, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 22109, the commissioner shall issue and deliver a license to the applicant.

(b) For purposes of subdivision (a), the investigation in connection with an application described in Section 22102 may be limited to the information not already included in previous applications filed pursuant to this division.

SEC. 7. Section 22106 of the Financial Code is amended to read:

22106. (a) The license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization, and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 22101 or 22102, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license shall state whether the licensee is licensed as a finance lender or a broker.

(b) A license for a business location outside this state may be issued if the licensee agrees in writing in the license application to do, at the option of the applicant, one of the following:

(1) Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.

(2) Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

A licensee located outside this state is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

SEC. 8. Section 22152 of the Financial Code is amended to read:

22152. A licensee shall maintain only one place of business under a duplicate or original license issued pursuant to Section 22101 or 22102. The commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this division governing an original issuance of a license.

SEC. 9. (a) In enacting this act it is the intent of the Legislature to streamline, to the extent feasible, the form, content, and investigation of an additional license location application to eliminate the processing of unnecessary and duplicative application information and, at the same time, ensure sufficient administrative flexibility to review and investigate any application information to comply with the requirements of the law.

(b) Subdivisions (b) and (c) as added to Section 22001 of the Financial Code by this act do not constitute a change in, but are declarative of, existing law.



Approved _____, 1997

Governor

